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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,094	07/25/2003	Jeffrey G. Freeman	33951.3	2248
27683	7590	09/23/2004	EXAMINER	
HAYNES AND BOONE, LLP 901 MAIN STREET, SUITE 3100 DALLAS, TX 75202			VASUDEVA, AJAY	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/627,094	Applicant(s) FREEMAN ET AL.	
	Examiner Ajay Vasudeva	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 9, 10, 13 and 20-26 is/are rejected.
- 7) ☒ Claim(s) 4, 8, 11, 12 and 14-19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/11/2003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Kiefer (US 4,047,255 A).

Kiefer ('255) shows a flotation device made of foam for supporting a user in the water (figures 2 and 3), having a pair of buoyant front panels [40, 41], a closure connecting the front panels [75, 76], a pair of side connecting panels comprising grommets and tie cords [28, 30] and extending from the front panels for disposition beneath the arms of the user, a buoyant back panel [34] connected to the side connecting panels, and a buoyant bottom-connecting panel [16] extending from the front panels to the back panel for disposition between the user's legs. A pair of shoulder straps connect the front panels to the back panel (see col. 2, lines 60-64)

3. Claims 20 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 2001-233289 A ('289).

JP ('289) shows a flotation device for supporting a user in the water (figures 1 and 2), having a pair of buoyant front panels [11], a closure connecting the front panels, a pair of side connecting panels comprising grommets and tie cords [17] and extending from the front panels for disposition beneath the arms of the user, a buoyant back panel [12] connected to the side

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connecting panels, a buoyant head support panel [15], and a bottom connecting panel [13] extending from the front panels to the back panel for disposition between the user's legs.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2001-233289 A ('289) in view of Spinoso et al. (US 4,416,641 A)

JP ('289) shows a flotation device with a bottom connecting panel.

JP ('289) -- at least in the translated abstract of the reference -- does not disclose the bottom-connecting panel as being buoyant.

Spinoso et al. shows a flotation jacket having a buoyant bottom-connecting panel [24] comprising foam [80].

It would have been obvious for one skilled in the art at the time of the invention to have made the bottom-connecting panel of JP ('289) with foam, as taught by Spinoso et al. Having such a construction would not only provide additional buoyancy to the jacket, but would also provide comfort to the user by preventing chafing of skin. Additionally, having such a construction would provide insulation against cold and injury-causing impacts.

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6. Claims 9, 10, 13, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2001-233289 A ('289) in view of Spinosa et al., and further in view of Martin et al.

JP ('289), as modified above by Spinosa et al., shows a flotation device.

JP ('289), modified, does not disclose the provision of a tether, or of a clip on one of the front and rear panels.

Martin et al. shows a flotation jacket having a tether [30] with a clip [40], which is attached to the front panel of the jacket for securing to any structure.

It would have been obvious for one skilled in the art at the time of the invention to have provided a tether with a clip on the front panel of the jacket of JP ('289), as modified above, and as taught by Martin et al. Having such a arrangement would have provided additional security to a user working on a boat or an offshore installation. It is noted that the clip of the tether is capable of being attached to another flotation device, as being claimed.

7. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2001-233289 A ('289) in view of Spinosa et al., and further in view of Max et al.

JP ('289), as modified above by Spinosa et al., shows an inflatable flotation device.

JP ('289), modified, does not disclose the device as comprising a zipper or foam.

Max et al. shows an inflatable flotation jacket (i) attaching the front panels with the aid of a zipper, and (ii) also utilizing chemicals that form a layer of foam within the inflated panels.

It would have been obvious for one skilled in the art at the time of the invention to have provided a zipper for attaching the front panels of the jacket of JP ('289), modified above, and as taught by Max et al. Having such an arrangement would have provided a more secure attachment means for the jacket.

It would also have been obvious for one skilled in the art at the time of the invention to have used the chemical providing a layer of foam in the inflatable jacket of JP ('289), modified above, and as taught by Max et al. Having such an arrangement would have provided buoyancy even if the jacket was accidentally punctured, inflated the jacket to conform to the user's shape, and provided insulation for the user.

8. Claims 20, 21, 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US 1,950,937 A) in view of over JP 2001-233289 A ('289).

Brown ('937) shows a flotation device for supporting a user in the water (figure 1), having a pair of buoyant front panels, a closure connecting the front panels, a pair of side connecting panels for disposition beneath the arms of the user, a buoyant back panel connected to the side connecting panels; and a bottom connecting panel extending from the front panels to the back panel for disposition between the user's legs. The front pair of straps constitute shoulder straps, and the rear pair of straps constitute connecting straps.

Brown ('937) does not show provision of a buoyant head support panel.

JP ('289) shows a buoyant head support panel attached to a flotation device.

It would have been obvious for skilled in the art at the time of the invention to have provided a buoyant head support panel in the device of Brown, as taught by JP ('289). Having such support panel would have maintained the head of a user in an upright position even when the user was unconscious, and would have prevented accidental drowning.

9. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of over JP 2001-233289 A ('289), and further in view of Martin et al.

Brown, as modified above by JP ('289), shows a flotation device.

Brown, modified, does not disclose the provision of a tether, or of a clip on one of the front and rear panels.

Martin et al. shows a flotation jacket having a tether [30] with a clip [40], and attached to the front panel of the jacket for securing to any structure.

It would have been obvious for one skilled in the art at the time of the invention to have provided a tether with a clip on the front panel of the jacket of Brown, as modified above, and as taught by Martin et al. Having such an arrangement would have been beneficial for the same reasons described above in item 6 of this Office Action.

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Allowable Subject Matter

10. Claims 4, 8, 11, 12, and 14-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:


The art cited in the attached PTO form 892 shows a variety of personal flotation devices, some of which can be used to modify the art used in the rejections above.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (703) 306-5992. The examiner can normally be reached on Monday-Friday 1:00 pm--5:30 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano can be reached on (703) 308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


AV

Ajay Vasudeva
Examiner
Art Unit 3617


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